



INTERIOR BOARD OF INDIAN APPEALS

Hugh D. Monroe v. Acting Billings Area Director, Bureau of Indian Affairs

21 IBIA 266 (03/25/1992)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

HUGH D. MONROE

v.

ACTING BILLINGS AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS

IBIA 91-89-A

Decided March 25, 1992

Appeal from a decision allocating grazing privileges on the Blackfeet Reservation.

Affirmed.

1. Indians: Leases and Permits: Farming and Grazing

The Bureau of Indian Affairs has authority to allocate grazing privileges on Indian land in accordance with a tribal allocation program.

APPEARANCES: Hugh D. Monroe, pro se.

OPINION BY ADMINISTRATIVE JUDGE VOGT

Appellant Hugh D. Monroe seeks review of an April 30, 1991, decision of the Acting Billings Area Director, Bureau of Indian Affairs (Area Director; BIA), affirming the allocation of range unit No. 244 (RU 244) on the Blackfeet Reservation to Verla Wellman LaPlante. For the reasons discussed below, the Board affirms the Area Director's decision.

Background

Appellant and LaPlante are both members of the Blackfeet Tribe. In 1990, appellant applied for allocation of a portion of RU 244, i.e., the portion southeast of U.S. Highway 2. LaPlante applied for allocation of the entire unit. On November 5, 1990, the Blackfeet Tribal Allocation Committee voted to recommend allocation of the southeast portion of RU 244 to appellant and allocation of the northwest portion to LaPlante.

Evidently, LaPlante had been using the entire unit under permit. By letter of November 8, 1990, the Superintendent, Blackfeet Agency, BIA, gave her 180 days' notice that her permit for the southeast portion would be cancelled. 1/ LaPlante appealed the Superintendent's letter to the Area Director.

1/ 25 CFR 166.15(c) provides: "The Superintendent may revoke or withdraw all or any part of a grazing permit by cancellation or modification on 180 days' written notice for allocated Indian use."

On December 6, 1990, the Blackfeet Tribal Business Committee adopted a resolution recommending that RU 244 be allocated in its entirety to Mike and Verla LaPlante. On February 27, 1991, the Area Director issued a decision in LaPlante's appeal; he noted the Tribe's change of position concerning RU 244 and remanded the matter to the Superintendent for further proceedings.

On March 7, 1991, the Business Committee rescinded its December 6, 1990, resolution, requesting BIA to resolve the matter through its appeal process.

Acting on the Tribe's request, the Superintendent analyzed the two allocation applications under Blackfeet Tribal Resolution No. 141-89, which governs the allocation of grazing privileges on the reservation. 2/ He reported his analysis to the Area Director in an April 4, 1991, memorandum:

Both applicants were determined eligible by the Blackfeet Tribal Allocation Committee.

Blackfeet Tribal Business Council Resolution 141-89 part II D. states "When more than one eligible applicant applies for an allocation the following selection criteria will be used." These six criteria were applied to the two applicants with these results.

1.) The individual reallocating a range unit that he currently holds the allocation for will have preference.

-0- Ms. LaPlante

-0- Mr. Monroe

2.) Cattle and sheep will have preference over horses.

+ 1 Ms. LaPlante

+ 1 Mr. Monroe

3.) The individual running all his own stock will have preference over the individual taking in stock.

+ 1 Ms. LaPlante

-0- Mr. Monroe

4.) The individual running all Blackfeet owned livestock will have preference over an individual running livestock owned by non-members.

+ 1 Ms. LaPlante

-0- Mr. Monroe

2/ The tribal resolution was adopted pursuant to 25 CFR 166.10, which authorizes tribes to allocate grazing privileges to tribal members and Indian organizations. See Conway v. Billings Area Director, 20 IBIA 29 (1991).

5.) The individual whose primary residence is nearest to the range unit will have preference.

-0- Ms. LaPlante

+ 1 Mr. Monroe

6.) An individual with no or one range unit will have preference over an individual with two or more range units.

+ 1 Ms. LaPlante

-0- Mr. Monroe

This application of the six criteria spelled out in [Blackfeet] Resolution 141-89 indicates a 4-2 decision in favor of Verla Wellman LaPlante.

(Superintendent's April 4, 1991, Memorandum at 1-2.)

On April 30, 1991, the Area Director determined that the entire unit should be allocated to LaPlante. Appellant's notice of appeal from this determination was received by the Board on May 13, 1991. No briefs were filed.

Discussion and Conclusions

Appellant argues that he must be allocated RU 244 in order to have access to his other range units. He also argues that the unit boundaries are unclear and urges redelineation of the unit. He offers to assign one of his other range units to appellant. He argues further that the allocation of RU 244 to LaPlante was a taking of his property without due process. Finally, he argues that he tried unsuccessfully to obtain an informal hearing before the Superintendent and all concerned parties in order to work out the problems. He contends that the failure to provide a hearing was a further violation of his right to due process.

Although appellant argues that allocation of RU 244 is critical to his ranching operation, it appears from the record that he has not had the use of that unit since at least 1979. He does not explain why RU 244 is now critical to his operation when it apparently has not been critical in recent years. He also does not explain what property of his was taken by the allocation of the unit to LaPlante.

According to the Superintendent, meetings between the parties took place, although no agreement was reached. The failure to reach agreement apparently led to BIA's determination to continue treating the matter under appeal procedures. Appellant's due process rights were not violated even if, as he contends, no informal hearing was conducted. The grazing regulations in 25 CFR Part 166 do not require informal hearings when allocation decisions are made. Appellant's right to due process was protected by his right to pursue this appeal. See, e.g., All Materials of Montana v. Billings Area Director, 21 IBIA 202 (1992), and cases cited therein.

[1] BIA's decision to allocate the unit to LaPlante was based on the criteria in Blackfeet Resolution No. 141-89. Appellant does not challenge BIA's analysis of his and LaPlante's applications under these criteria.

Appellant has failed to show error in the Area Director's decision.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

//original signed

Anita Vogt
Administrative Judge

I concur:

//original signed

Kathryn A. Lynn
Chief Administrative Judge